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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,549	04/25/2001	Richard L. Baer	10003419	7608

7590 03/26/2004

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

VU, NGOC YEN T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/842,549

Applicant(s)

BAER, RICHARD L.

Examiner

Ngoc-Yen T. Vu

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The amendments, filed on 01/06/2004, have been entered and made of record. Claims 1-12 are pending.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bell et al. (US #6,486,915).

Claims 5-8 will be discussed first. Regarding claim 5, Bell '915 teaches an apparatus for exposure control, comprising:

means for obtaining a photograph of an image scene for each of a set of possible exposures (see Figs. 1 and 3, col.2 lines 47-55; col. 3 lines 8-15, 49-63);

means for determining a number of clipped pixels in each photograph (Figs. 4-6, col. 1 lines 61-65; col. 4 line 48 – col. 5 line 65);

means for determining a selected exposure from the possible exposures such that the photographs obtained using the possible exposures higher than the selected exposure have an increased value for the number (col. 5 lines 3-42; col. 5 line 66 – col. 6 line 11; col. 6 line 57 – col. 7 line 57), and the photographs obtained using the possible exposures less than the selected exposure do not have a substantially lower value for the number (col. 5 lines 43-65; col. 6 lines 12-20; col. 6 line 57 – col. 7 line 57).

As to claim 6, Bell teaches that the means for determining a number of clipped pixels comprises means for measuring an amplitude of each of a set of pixels in the corresponding photograph (col. 3 lines 49-63; col. 5 lines 3-22; col. 4 line 48 – col. 5 line 10); means for generating a histogram of a number of the pixels from the corresponding photograph verses the corresponding amplitude (Figs. 4-6; col. 5 line 10 – col. 6 line 57; col. 7 lines 12-57); means for detecting a jump in the number of pixels at a high pixel amplitude (Figs. 4-6; col. 5 lines 15-22; col. 6 lines 11-20; col. 7 lines 38-57).

As to claim 7, Bell teaches the means for determining a number of clipped pixels comprises means for setting a starting exposure and determining the number of clipped pixels from the corresponding photograph for the starting exposure (col. 1 line 66 - col. 2 line 4); means for setting a series of increased exposures and determining the number of clipped pixels from the corresponding photographs for the increased exposures (col. 1 line 57 – col. 2 line 12; col. 6 lines 11-56); means for setting a series of decreased exposures and determining the number of clipped pixels from the corresponding photographs for the decreased exposures (col. 6 lines 57 – col. 7 line 52).

As to claim 8, Bell teaches the means for determining a selected exposure comprises means for determining a subset of the possible exposures for which the number is relatively unchanged (col. 6 lines 11-56); and means for determining a first one of the possible exposures higher than the subset for which the number increases (col. 6 line 45 – col. 8 line 26).

Regarding claims 1-4, claims 1-4 are method claims corresponding to the apparatus claims 5-8, respectively. Therefore, claims 1-4 are analyzed and rejected as previously discussed with respect to claims 5-8.

Regarding claim 9, Bell teaches a digital camera (see Fig. 1), comprising:  
image sensor (photo cells 112);  
exposure mechanism that provides a set of possible exposures to the image sensor from an image scene (automatic exposure control 128);

image processor (processors 116-124, A/D 120, image buffer 126 and exposure control 128) that obtains a photograph of an image scene for each of a set of possible exposures (see Figs. 1 and 3, col.2 lines 47-55; col. 3 lines 8-15, 49-63), and determines a number of clipped pixels in each photograph (Figs. 4-6, col. 1 lines 61-65; col. 4 line 48 – col. 5 line 65), and determines a selected exposure from the possible exposures such that the photographs obtained using the possible exposures higher than the selected exposure have an increased value for the number (col. 5 lines 3-42; col. 5 line 66 – col. 6 line 11; col. 6 line 57 – col. 7 line 57), and the photographs obtained using the possible exposures less than the selected exposure do not have a substantially lower value for the number (col. 5 lines 43-65; col. 6 lines 12-20; col. 6 line 57 – col. 7 line 57).

As to claim 10, see the Examiner's comments regarding claim 6.

As to claim 11, see the Examiner's comments regarding claim 7.

As to claim 12, see the Examiner's comments regarding claim 8.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NGOC-YEN VU  
PRIMARY EXAMINER

Art Unit 2612

NYV  
03/19/2004